

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

REGINALD D. ABBOTT,

Defendant.

Case No. 14-00253-01-CR-W-HFS

GOVERNMENT'S OPPOSITION TO DEFENDANT'S MOTION TO MARRY

Defendant Reginald D. Abbott moves for this court for permission to marry Jacklon Marie Bailey [Doc. # 16]. The United States opposes this request because Ms. Bailey is anticipated to be a key witness in both his federal and state trials, in that she is expected to testify contrary Abbott's proffered alibi.¹

The United States believes Abbott is attempting to avoid having Ms. Bailey testify against him at trial by entering into this marriage and gaining the adverse spousal testimony privilege.² If the court were to allow this marriage, Ms. Bailey could potentially invoke the marital privilege and be precluded from testifying against Abbott.

¹ In a factually-related case, Abbott has been charged in Missouri state court with first degree murder and armed criminal action. *See State v. Abbott*, Case No. 1416-CR03055 (Jackson Co. Cir. Ct. filed Sept. 2, 2014).

² “Federal courts recognize two distinct marital privileges under Rule 501 of the Federal Rules of Evidence: the marital confidential communication privilege and the adverse spousal testimony privilege. . . . Under the adverse spousal testimony privilege . . . an individual ‘may be neither compelled to testify nor foreclosed from testifying’ against the person to whom he or she is married at the time of trial. . . . The privilege therefore rests with the testifying spouse, who may waive the privilege without the consent of the defendant spouse.” *United States v. Bad Wound*, 203 F.3d 1072, 1075 (8th Cir. 2000). Missouri’s privilege is similar. *See Mo. Rev. Stat. § 546.260.1.*

Because it is anticipated that Ms. Bailey's testimony will be necessary at both his state and federal trials, the government respectfully requests this Court deny his motion.

Respectfully submitted,

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By */s/ Justin G. Davids*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on January 16, 2015, to the CM-ECF system of the United States District Court for the Western District of Missouri.

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JGD/lm